

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION

In the Matter of the Investigation
of GTE-Minnesota's Cost of
Providing Interconnection and
Unbundled Network Elements

**RECOMMENDATION FOR
DISMISSAL WITHOUT PREJUDICE**

On June 9, 1998, the MPUC issued an Order Deferring Proceedings in this matter. The Order deferred the proceedings until January 19, 1999. On December 29, 1999, the Administrative Law Judge wrote to GTE and other parties and interested persons to determine whether and how they wish to proceed in the matter.

By letter of January 19, 1999, GTE suggested that the docket be continued for another six months because of its announced intention to reposition several properties, including the sale of its Minnesota exchanges.

Sprint responded that it would not actively participate if proceedings were scheduled in the near future, may withdraw from the case, and would not object to a six-month delay. AT&T responded that it was not prepared to participate actively even though it had a significant interest in the subject matter. Citing the proposed sale of GTE's exchanges in Minnesota, AT&T proposed that the docket simply be closed because allowing the new owner to open a new case would be more rational. The Department of Public Service, citing the pending sale of GTE's exchanges and lack of other carriers' interest in the proceeding, also suggested that the docket be closed. The Office of Attorney General – Residential Utilities Division, concurred with the Department's position that the docket should be closed.

On February 11, 1999, GTE submitted a further response stating, in part:

GTE does not object to closing the docket for the time being, subject to reopening, and provided that "interim" UNE rates will remain subject to true up pursuant to the Commission's December 1, 1996 and March 14, 1997 Orders and the terms of the GTE/AT&T Interconnection Agreement approved by the Commission (Att. 14, Sec. 2).

Based upon the foregoing representations of GTE and the other interested parties, and being aware of continuing changes in interpretations of the Telecommunications Act of 1996, the Administrative Law Judge concludes that this

matter should be dismissed without prejudice. That would allow GTE or any new owner of the exchanges to refile in the future based upon updated cost studies and the status of the law at that time.

NOW, THEREFORE, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RESPECTFULLY RECOMMENDED that the MPUC issue an order that GTE's petition be DISMISSED WITHOUT PREJUDICE.

Dated: March 11, 1999

STEVE M. MIHALCHICK
Administrative Law Judge

NOTICE

Notice is hereby given that, pursuant to Minn. Stat. § 14.61, and the Rules of Practice of the Public Utilities Commission and the Office of Administrative Hearings, exceptions to this Report, if any, by any party adversely affected must be filed within 20 days of the mailing date hereof with the Executive Secretary, Minnesota Public Utilities Commission, 350 Metro Square, 121 7th Place East, St. Paul, Minnesota 55101. Exceptions must be specific and stated and numbered separately. Proposed Findings of Fact, Conclusions and Order should be included, and copies thereof shall be served upon all parties. If desired, a reply to exceptions may be filed and served within ten days after the service of the exceptions to which reply is made. Oral argument before a majority of the Commission will be permitted to all parties adversely affected by the Administrative Law Judge's recommendation who request such argument. Such request must accompany the filed exceptions or reply, and an original and 15 copies of each document should be filed with the Commission.

The Minnesota Public Utilities Commission will make the final determination of the matter after the expiration of the period for filing exceptions as set forth above, or after oral argument, if such is requested and had in the matter.

Further notice is hereby given that the Commission may, at its own discretion, accept or reject the Administrative Law Judge's recommendation and that said

recommendation has no legal effect unless expressly adopted by the Commission as its final order.